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OFFICE OF PETITIONS

In re Application of :
Scheibe, et al. :
Application No. 10/049,834 : ON PETITION
Filed: February 19, 2002 :
Attorney Docket No. 842FR/50684 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 15, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed February 5, 2004. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on May 6, 2004. A Notice of Abandonment was mailed on August 12, 2004.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a USPTO date stamped postcard receipt dated June 2, 2004, and itemizing an amendment and a check for \$110. Petitioner has also supplied a copy of the amendment. However, the postcard receipt and amendment are directed to application No. 10/049,843, not 10/049,834.

Nevertheless, as set forth in the Manual of Patent Examining Procedure § 724.05:

Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g. application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.


Here, apart from the application number, the response did contain the correct identifying information (specifically the attorney docket number, the title of invention, the inventor, the filing date, Examiner's name and group art unit). Accordingly, it is concluded that the Office could have determined the correct application file for which the response was intended.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The \$110 fee for the extension of time has been removed from application No. 10/049,843 and placed into the instant application.

The matter is being forwarded to Group Art Unit 3752 for consideration of the amendment filed June 2, 2004 (copy supplied with the instant petition).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions